

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

CHRISTOPHER PEMENTAL

Plaintiff,

v.

C.A. No. 1:18-cv-00101-JJM-LDA

US BANK NATIONAL ASSOCIATION AS
TRUSTEE FOR THE HOLDERS OF THE
BEAR STEARNS ASSET BACKED
SECURITIES I TRUST 2004-AC6, ASSET
BACKED CERTIFICATES,
SERIES 2004-AC6,
OCWEN LOAN SERVICING, LLC,

AFFIDAVIT OF HOWARD R. HANDVILLE

I, Howard R. Handville, do depose and state that:

1. I make this affidavit in support of the *Motion to Dismiss* filed by Defendants U.S. Bank National Association, Not Individually But Solely as Trustee for the Holders of the Bear Stearns Asset Backed Securities I Trust 2004-AC6, Asset Backed Certificates, Series 2004-AC6 (“U.S. Bank as Trustee”) and Ocwen Loan Servicing (“Ocwen”) (collectively, the “Defendants”).

2. I hold the position of Senior Loan Analyst at Ocwen Financial Corporation, whose subsidiary is PHH Mortgage Corporation dba PHH Mortgage Services (“PHH”), successor servicer to Ocwen Loan Servicing, LLC (“OLS”). I have personal knowledge of the matters set forth herein, or alternatively, have ascertained the information herein provided based upon the business records of PHH, and would be competent to testify thereto. The information in this

affidavit is taken from business records that include physical and electronic records of loan activity, events and transactions (“Records”).

3. In my capacity as Senior Loan Analyst I am responsible for reviewing certain mortgage loans serviced by PHH, including the mortgage loan at issue in this case. I have personal knowledge of PHH’s procedures creating and maintaining the Records. It is PHH’s custom and practice that such records are: (a) made at or near the time of the occurrence of the matters; (b) made by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (c) kept in the course of PHH’s regularly conducted business activities. I am familiar with and have access to the Records for the subject loan, which I have reviewed to verify the accuracy of this affidavit. Each of the documents attached to this affidavit is a business record.

4. The Records establish that on September 10, 2004, Plaintiff executed a promissory note (“*Note*”) in the original principal amount of \$343,900.00 in favor of GreenPoint Mortgage Funding, Inc. (GreenPoint”) to evidence a loan of even amount. On the same date, as security for repayment of the *Note*, Mr. Pemental granted a mortgage lien (“*Mortgage*”) on property located at 193 Sowams Road, Barrington, Rhode Island 02806 (“Property”) to Mortgage Electronic Registration Systems, Inc. (“MERS”) as nominee for GreenPoint.

5. The *Mortgage* was recorded with the Land Evidence Records of the Town of Barrington, Rhode Island on September 13, 2004 at Book 869 and Page 242.

6. A true and correct copy of the *Mortgage* is attached as **Exhibit A-1**.

7. On November 4, 2008, MERS as nominee for GreenPoint assigned the *Mortgage* to GreenPoint. This assignment is attached as **Exhibit A-2**.

8. On January 10, 2012, GreenPoint assigned the *Mortgage* to U.S. Bank N.A., as Trustee for Certificateholders of Bear Stearns Asset-Backed Securities I Trust 2004-AC6, Asset-Backed Certificates Series 2004-AC6. This assignment is attached as **Exhibit A-3**.

9. On September 11, 2014, U.S. Bank National Association, as Trustee for Certificateholders of the Bear Stearns Asset Backed Securities I Trust 2004-AC6, Asset Backed Certificates Series 2004-AC6 assigned the *Mortgage* to U.S. Bank National Association, Not Individually But Solely as Trustee for the Holders of the Bear Stearns Asset Backed Securities I Trust 2004-AC6, Asset Backed Certificates, Series 2004-AC6. This assignment is attached as **Exhibit A-4**.

10. Thus, U.S. Bank National Association, Not Individually But Solely as Trustee for the Holders of the Bear Stearns Asset Backed Securities I Trust 2004-AC6, Asset Backed Certificates, Series 2004-AC6 is the holder of the *Mortgage*.

11. PHH Mortgage Corporation ("PHH"), as successor to Ocwen services the Mortgage on behalf of U.S. Bank as Trustee.

12. Plaintiff defaulted on the *Note* and *Mortgage* by failing to make the payment due July 1, 2008, and all subsequent payments.

13. On April 22, 2014, Defendant sent a notice of default to Plaintiff, requiring him to pay \$221,702.95 on or before May 29, 2014 to cure the default and avoid acceleration and sale. A copy of this notice is attached as **Exhibit A-5**.

14. Plaintiff did not cure the default on or before May 29, 2014.

15. On July 26, 2016, Defendant sent another notice of default to Plaintiff, requiring him to pay \$331,064.02 on or before September 1, 2016 to cure the default and avoid acceleration and sale. A copy of this notice is attached as **Exhibit A-6**.

16. Plaintiff did not cure the default on or before September 1, 2016.

17. Because Plaintiff failed to cure the default, Defendants mailed a notice of sale on January 11, 2018, scheduling a foreclosure sale on the Property for March 5, 2018, a copy of which is attached as **Exhibit A-7**.

18. Defendants canceled the foreclosure sale that was scheduled for March 5, 2018, and did not reschedule a foreclosure sale for the Property.

19. Instead, Defendants waived all foreclosure costs and fees that had been assessed to the *Mortgage* account.

20. Specifically, on June 8, 2018, Defendants waived the following charges:

Title Report Fee	\$564.00
Appraisal Expense	\$10.50
Property Valuation	\$436.00
FC Thru Complaint	\$2,501.25
Skip Trace/Search	\$5.30
Service of Process	\$190.07
Auction Advertising Costs	\$432.65
Publication	\$1,440.94
Sale Publication	\$606.24
Selling Officer/Sheriff Cancel Fee	\$425.00
Monitoring Senior Lien Cost	\$25.00

21. Additionally, on April 23, 2019, Defendants waived \$282.00 for a Title Report Fee, and on May 7, 2019, Defendants waived \$2,177.72 for a Foreclosure Expense.

22. Thus, in total, Defendants waived \$9,096.67 in fees related to prior foreclosure activities.

23. Defendants, through their counsel, mailed Plaintiff a notice of default (the “2019 Notice”) on December 20, 2019, a copy of which is attached as **Exhibit A-8**.

24. The 2019 Notice was mailed to Plaintiff at the Property and to his attorney by first class and certified mail. See **Exhibit A-8**.

25. The 2019 Notice requires the Plaintiff to pay the cure amount of \$439,539.53 by the cure date, which is specified to be January 20, 2020. See Exhibit A-8.

26. The cure amount stated in the 2019 Notice is comprised entirely of past due payments of principal and interest, plus payments for insurance and taxes and an escrow shortage as required by the *Mortgage*. See Exhibit A-8.

27. The 2019 Notice advises the Plaintiff that he has the right to bring a court action to assert the non-existence of default and any other defenses to foreclosure he may have and advises him that he has the right to reinstate the *Mortgage* at any time prior to five days before the foreclosure sale. See Exhibit A-8.

28. Plaintiff did not cure the default by the cure date specified in the 2019 Notice.

29. The Mortgage remains in default.

30. As of November 14, 2018, Plaintiff owed \$687,972.99 on the *Note* and *Mortgage* for principal, interest, and escrow advances.

Subscribed and sworn to under the pains and penalties of perjury on this 27th day of February 2020, by:



Howard R. Handville

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was sworn and acknowledged before me this 27th day of February, 2020, by Howard R. Handville, Senior Loan Analyst, Ocwen Financial Corporation, whose subsidiary is PHH Mortgage Corporation, servicer for U.S. Bank National Association, not individually but solely as trustee for the holders of the Bear Stearns Asset Backed Securities I Trust 2004-AC6, Asset Backed Certificates, Series 2004-AC6 .

☒ who is personally known to me

☐ who produced _____ as identification.



NOTARY PUBLIC

(Name of Notary, typed, printed or stamped)

Commission No.:

